

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

U. S. DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
FILED
8-31-04
MICHAEL N. MILBY, CLERK
DEPUTY

UNITED STATES OF AMERICA,

Plaintiff,

v.

KEVIN P. HANNON,

Defendant.

No. CR-H-03-0093-04
(Gilmore, J)

COOPERATION AGREEMENT

Pursuant to Rule 11 of the Federal Rules of Criminal Procedure, the United States Department of Justice by the Enron Task Force ("the Department") and Kevin P. Hannon ("Defendant") agree to the following (the "Agreement"):

1. Defendant will plead guilty to Count 1 of the above-captioned Fourth Superseding Indictment charging him with conspiracy to commit securities and wire fraud in violation of 18 U.S.C. § 371. Defendant agrees that he is pleading guilty because he is guilty, and that the facts contained in Exhibit A (attached and incorporated herein) are true and supply a factual basis for his plea. At the time it was committed by Defendant, the crime of conspiracy to commit securities and wire fraud carried the following statutory penalties:

- a. Maximum term of imprisonment: 5 years
(18 U.S.C. § 371)
- b. Minimum term of imprisonment: 0 years
(18 U.S.C. § 371)
- c. Maximum term of supervised release: 3 years, to follow any term of imprisonment; if a condition of release is violated, Defendant may be sentenced to up to two years without credit for pre-release imprisonment

GOVERNMENT
EXHIBIT
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or time previously served on post-release supervision
(18 U.S.C. §§ 3583 (b) & (e))

- d. Maximum fine: \$250,000 or twice the gain/loss
(18 U.S.C. § 3571(b)(3))
- e. Restitution: As determined by the Court pursuant to statute
(18 U.S.C. §§ 3663 and 3663A)
- f. Special Assessment: \$100
(18 U.S.C. § 3013)

Sentencing Guidelines

2. The Defendant agrees that his sentence is governed by the United States Sentencing Guidelines (the "Guidelines"), to the extent that they may be constitutionally applied to the Defendant. Additionally, the Defendant (a) waives any right to have facts that determine the offense level¹ under the Guidelines alleged in an indictment and found by a jury beyond a reasonable doubt, (b) agrees that the facts that determine the offense level will be found by the court at sentencing by a preponderance of the evidence, unless it is determined that this burden of proof cannot be waived, and that the court may consider any reliable evidence, including hearsay, and (c) waives any constitutional challenge to the validity of the Guidelines. The parties agree that Defendant's sentence is governed by the November 2000 Sentencing Guidelines Manual and that U.S.S.G. § 2F1.1 governs the determination of the applicable offense level and sentence, capped by the statutory maximum of 60 months. The Department agrees, based on information known to it on the date of this Agreement, that it will not oppose a downward adjustment of three levels for acceptance of responsibility pursuant to U.S.S.G. § 3E1.1. The Department and

¹The term "offense level" includes the base offense level plus all specific offense characteristics, enhancements and adjustments.

